



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,746	08/25/2006	Giorgio Pozzato	1029.1037	1191
20311 7590 12/23/2008 LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016				
EXAMINER				
WEEKS, GLORIA R				
ART UNIT		PAPER NUMBER		
3721				
MAIL DATE		DELIVERY MODE		
12/23/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,746

Applicant(s)

POZZATO, GIORGIO

Examiner

GLORIA R. WEEKS

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4 and 6-14 is/are rejected.
- 7) ☒ Claim(s) 2, 5, 13, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the amendment and remarks received on December 9, 2008.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 9, 2008 has been entered.

3. Claims 15 and 16 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 17 and 18. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the guide of the main body" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 4, 6, 9, 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Deng (USPN 6,076,720).

In reference to claims 1, 3, 4, 6, Deng discloses a stapler comprising two half-bodies (12, 14) defining a main body which includes a seat for a row of staples (40, 42) which are urged by a pusher (16, 17) toward an ejection head (122, 124), wherein a striker (112) can run in a direction substantially perpendicular to the feed direction of the row of staples (40, 42) in the seat, characterized in that a mobile plate (30) having a notch (322) is mechanically connected to a slider (24) which protrudes (248) outside the main body so that by moving the slider (24) the mobile plate (30) can slide parallel to the feed direction in the main body between the ejection head and the striker (112; figures 3 & 5).

In reference to claims 1, 7, 9, 10 and 14, Deng discloses a stapler comprising: two half-bodies (12, 14) defining a main body which includes a seat for a row of staples (40, 42) which are urged by a pusher (16, 17) toward an ejection head (122), wherein a striker (112) can run in a direction substantially perpendicular to the feed direction of the row of staples (40, 42) in the seat (12); characterized in that a mobile plate (24) mechanically connected to a slider (30), which

protrudes outside the main body, such that movement of the slider (30) permits the mobile plate (24) to slide (figures 3 & 5), the slider (30) having two flexible arms (36) with teeth (321); an pin expander (244) that vertically slides into an opening (322) in the central body of the slider (30) and across an opening in the middle of the slider (20).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deng (USPN 6,076,720) in view of Oide (USPN 4,556,161).

With respect to claims 11 and 12, Deng discloses stapler comprising a striker and mobile plate, but does not disclose the dimensions of the striker and mobile plate. Oide teaches a stapler having a striker (9), and a mobile plate (22) slidable with respect to a seat (3) of a main body of the stapler. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the striker to have the claimed thickness of .8 mm and a width of 10-12 mm, as well as a mobile plate having a thickness of less than .5 mm and a width of 9-12 mm, since column 3 line 66 – column 4 line 33 of Oide suggests that it is well known in the art to correspond the thickness and width of a striker and mobile plate to the largest thickness and width of staples to be driven from the stapler.

Allowable Subject Matter

10. Claim 2, 5 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to the rejection of claim 1 in view of Deng have been considered but are moot in view of the new ground(s) of rejection. While Examiner has maintained the application of Deng as prior art that discloses Applicant's invention as claimed, Examiner has modified the interpretation of Deng in light of the amendments to claim 1 as filed on December 9, 2008.

13. Applicant's arguments, see pages 10-12, filed December 9, 2008, with respect to claim 1 have been fully considered and are persuasive. The 35 USC 102(b) rejection of claims 1, 2, 4, 5 and 13 in view of Nakamura have been withdrawn.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLORIA R. WEEKS whose telephone number is (571)272-4473. The examiner can normally be reached on M-F 7am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

/Gloria R. Weeks/
Examiner, Art Unit 3721

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit
3721

December 24, 2008